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Committee on Economic, Social and Cultural Rights
Human Rights Treaties Division
Office of the United Nations High Commissioner for
Human Rights
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Draft General Comment Article 15 ICESCR, Right to Science

Dear Sir or Madam,

We write to you in our capacities as professors at Friedrich-Alexander-Universität Erlangen-Nürnberg (FAU) where we teach human rights and human rights politics. Our areas of expertise are economic, social and cultural rights (Prof. Krennerich) as well as academic and scientific freedom (Prof. Kinzelbach).

We greatly appreciate the committee's efforts to develop a long due comment on Article 15 ICESCR, and commend it for organizing a multi-layered consultative process. Having had the opportunity to participate in an expert consultation with the rapporteur on 3 May 2018 in Berlin, we are greatly encouraged to see that suggestions made by various stakeholders were taken into account. The result is a comprehensive document that will most certainly advance our understanding of the right to science.

There are a few points that should, in our opinion, still be addressed by the committee to avoid possible misinterpretations:

- Para 18: “[researchers’] possibility to contribute to the definition of the aims and objectives of the research and the methods to be adopted which should be humanely, scientifically, socially and ecologically responsible” – we strongly advise to delete the word “contribute” and rephrase this sentence; scientific freedom entails the right of researchers to determine the aims, objectives and methods of scientific research, not merely to contribute to such decisions. Who if not researchers should have that authority? In our assessment, the current formulation can be construed to justify undue interference in researchers’ decisions. Recommended formulation: “their possibility to take free decisions on the aims and objectives of the research and the methods to be adopted which should be humanely, scientifically, socially and ecologically responsible”; note that the last part of this sentence clearly indicates that researchers must take a number of criteria into account when taking decisions on aims, objectives and methods of research.

- Para 18: should also mention “the protection of scientific institutions from undue interference, notably by guaranteeing institutional autonomy”.
- Para 18: “the sharing of scientific data between researchers, with policymakers, and with the public wherever possible” – we recommend to rephrase as follows: “the sharing of scientific data and analysis between researchers, with policymakers, and with the public wherever possible”. The word “analysis” is of particular importance, firstly because all data needs interpretation to be intelligible, and secondly because not all forms of research result in “data” (notably in the humanities).
- Para 22: this paragraph could stress that States Parties should also take measures to bridge the science gap between rich and poor countries.
- Para 28: we recommend rewording as follows “Such limits however should not undermine the freedom necessary for scientific research or infringe on the possibility to benefit from science, or violate other human rights”.
- Para 46: we recommend adding “indoctrination”: “the elimination of indoctrination, censorship or limitations on access to the Internet...”.
- Para 85: as in para 46, we recommend to add “indoctrination” to this sentence: “adequate protection against all forms of discrimination and/ or indoctrination”.
- Para 86: we recommend rewording as follows: “Second, States Parties have to develop a national plan of action to promote an enabling environment for scientific progress and to disseminate its results and products to all persons without discrimination.” The final part of this sentence requires clarification. Are you asking States Parties to disseminate the action plan or to disseminate scientific results? In the latter case, we suggest the wording “disseminate scientific results to all persons...”.
- Para 86: “a national plan of action for science and technology will ensure that different scientific endeavours are not carried out in isolation and without coordination” – we consider this a harmful clause and strongly recommend removing it. Many scientific breakthroughs were possible precisely because individual researchers were courageous enough to break with the mainstream and pursue entirely new ideas or innovative scientific methods. Such researchers often work in isolation – at least initially before their novel insights become accepted knowledge. What is more, scientific progress benefits from competition between researchers. States should not be incentivized to coordinate scientific endeavours; they should strictly focus on creating an enabling environment for scientific research and progress. Such an environment must allow isolated and uncoordinated research. Finally yet importantly, we worry that the notion of a national action plan as currently described in paragraph 86 could be misconstrued to justify undue interference in scientific and academic freedom.

We hope that you will consider the above recommendations and address the stated concerns. In our common goal to benefit science and scientific researchers, we remain at your disposal for any questions that you might have.

Sincerely,

Katrin Kinzelbach and Michael Krennerich